

KNOW YOUR RIGHTS!

NLG National Office
212.627.2656, www.nlg.org

NLG National Immigration Project:
Help for attorneys and help finding immigration attorneys
617.227.9727

National Immigration Law Center
(on line immigration information)
www.nilc.org

American Arab Anti-Discrimination Committee (ADC):
Report hate crimes and harassment against Arabs and Muslims;
help for non-citizens and attorneys
(202) 244-2990

What rights do I have?

Whether or not you're a citizen, you have these constitutional rights:

The Right to Remain Silent. The Fifth Amendment to the U.S. Constitution gives every person the right to remain silent in the face of questions posed by any police officer or government agent.

The Right to be Free from “Unreasonable Searches and Seizures”. The Fourth Amendment is supposed to protect your privacy. Without a warrant, police or government agents are not allowed to search your home or office and you can refuse to let them in. Know, however, that it is easy for the government to monitor your e-mail, telephone calls, and conversations in your home, office, car or meeting place.

The Right to Advocate for Change. The First Amendment to the U.S. Constitution protects the rights of groups and individuals who advocate changes in laws, government practices, and even the form of government. However, the INS can target non-citizens for deportation because of their First Amendment activities, as long as it could deport them for other reasons.

CONSTITUTIONAL RIGHTS CANNOT BE SUSPENDED– EVEN DURING A STATE OF EMERGENCY OR WARTIME.

What should I do if agents come to question me?

- 1. YOU DO NOT HAVE TO TALK TO THE POLICE, FBI, INS, OR ANY OTHER LAW ENFORCEMENT AGENT OR INVESTIGATOR.** You are not legally obligated to talk to anyone: on the street, at your home or office, if you've been arrested, or even if you're in jail. If you are driving a motor vehicle, you are required to show your license and registration. *Only a judge has the legal authority to order you to answer questions.* If you are contacted, tell the agent you want to consult an attorney. They should stop trying to question you once you say this. You do not have to already have a lawyer. Remember to get the name, agency, and telephone number of any investigator who calls or visits you, and call the NLG, or a criminal or immigration lawyer, before deciding whether to answer questions.
- 2. YOU CAN SAY NO! If the police, FBI, INS or anyone else tries to enter your home without a warrant, say, “I will not talk to you until I consult an attorney.”** Many people are afraid that if they refuse to cooperate, it will appear as if they have something to hide, or think that they can educate the police. Don't be fooled. Talking to the FBI can be very dangerous. You can never tell how a seemingly harmless bit of information might be used to hurt you or someone else. The FBI is not just trying to find “terrorists”, but is gathering information on immigrants and activists who have done nothing wrong. And keep in mind that even though they are allowed to and do lie to *you*, lying to a federal agent is a crime. The safest things to say are “I am going to remain silent”, “I want to speak to my lawyer”, and “I do not consent to a search.”

3. **YOU DO NOT HAVE TO LET POLICE OR OTHER LAW ENFORCEMENT AGENTS INTO YOUR HOME OR OFFICE UNLESS THEY HAVE A WARRANT.** Demand to see the warrant. If they have a search warrant, you cannot stop them from entering and searching, but *you should still tell them that you do not consent to a search*. This will limit the search to what is specified in the warrant. If they ask you to give them documents, your computer, or anything else, look to see if the item is listed in the warrant. If it is not, do not consent to them taking it without talking to a lawyer. An *arrest* warrant does not allow them to search your home or office unless you consent to that. Say “I do not consent to a search.” Do not answer any questions. Call the NLG or a criminal lawyer.
4. **IF YOU ARE STOPPED ON THE STREET, ASK IF YOU ARE FREE TO GO.** If you are stopped by the police, ask them why. Remember, they are allowed to lie to you. Ask “Am I free to go?” If they say yes, walk away. Legally, you do not have to give your name unless they suspect you of a crime, but it may be expedient to do so-- however, be aware that police/ agents may be carrying a list of deportable aliens, and that giving a false name could be a crime. If you are not free to go, you are being detained, but this does not necessarily mean you will be arrested. They are entitled to frisk you. A frisk is a pat down on the outside of your clothing. Do not consent to any further search. But if they continue, or in some other way violate your rights, stay calm and don't physically resist police or agents. You will only be hurt and arrested. Stick to “I don't consent, I want to speak to my lawyer.” and call a lawyer at your first opportunity. You do not have to answer questions if you are detained or even if you are arrested.
5. **ANYTHING YOU SAY TO THE POLICE, FBI, INS, ETC. CAN BE USED AGAINST YOU AND OTHERS.** They may pressure you by saying it's unpatriotic not to answer, or that people with nothing to hide would talk. Remember, however, that even innocent people who have done nothing wrong may say things that the government will use against them or others. That is why the right not to talk is a fundamental right under our Constitution. Repeat “I want to talk to my lawyer” to any officer who questions you.

What if the FBI threatens me with a grand jury subpoena?

It is common for the FBI to threaten you with a subpoena to get you to talk to them. Don't be intimidated. This is frequently an empty threat, and if they are going to subpoena you, they will do so anyway. Receiving a subpoena to testify before a grand jury doesn't mean that you are suspected of a crime. And you may have legal grounds to quash the subpoena or to refuse to answer questions before the grand jury. If you do receive a subpoena, call the NLG or a criminal lawyer.

How should I respond to threatening letters or calls?

If your home or office is broken into, or threats have been made against you, your organization, or someone you work with, share this information with everyone affected. Take immediate steps to increase personal and office security. You should discuss with your group and with a lawyer whether and how to report such incidents to the police and the advisability of taking other legal action. If you decide to make a police report, do not do so without a lawyer present. See the contact information on the front for numbers you can call if you receive threats. If you suspect government agents are monitoring you, or are harassing you, report this to the NLG.

What if I am under 18?

Minors too have the right to remain silent; *you do not have to talk to the police, probation officers, or school officials*. If you are detained at a community detention facility or Juvenile Hall, you normally must be released to a parent or guardian. If charges are filed against you, you have the right to have a lawyer appointed to represent you at no cost.

Your rights at school: Public school students have the First Amendment right to politically organize at school by passing out leaflets, holding meetings, publishing independent newspapers, etc., just so long as those activities do not disrupt classes. Students can be suspended or expelled from school only if they violate the law or disrupt school activities. You have the right to a hearing, with your parents and an attorney present, before being suspended or expelled.

Students can have their backpacks and lockers searched by school officials at school if they have “reasonable suspicion” that you are involved in criminal activity, carrying drugs, weapons, etc. Reasonable suspicion means they have to have a specific reason, but in reality, doesn't give you much protection. Do not consent to the police or school officials searching your property, but *do not physically resist or you may face criminal charges*.

Students can now be stopped and questioned by school officials at school even *without* reasonable suspicion. If you are not in class you can be stopped and questioned as to where you are going and why, but they should not stop and question you for engaging in legally protected political activity or because of your ethnicity or religion.

What if I am not a citizen?

- 1. CARRY WITH YOU THE NAME AND NUMBER OF AN IMMIGRATION ATTORNEY WHO WILL TAKE YOUR CALLS.** If you are a legal permanent resident, you should carry your green card as well. Navigating the immigration system by yourself is extremely difficult. INS will not explain your options to you. *You do not have to reveal your immigration status or answer any other questions. As soon as you encounter an INS agent, call your attorney.* If you can't do it right away, keep trying.

2. KNOW AND ASSERT YOUR RIGHTS! INS will not do it for you. *Currently, all non-citizens have the following rights, regardless of your immigration status:*

- a. You have the right to speak to an attorney before answering any questions or signing any documents.** You have the right to call an attorney or your family if you are detained and you have the right to be visited by an attorney in detention. You have the right to have your attorney with you at immigration hearings with INS. You do not, however, have the right to a government-appointed attorney, so you must hire one or find someone who will represent you for free. Call the numbers listed on this pamphlet for help.
- b. If you are arrested or detained, the INS must decide in 48 hours whether to put you into immigration proceedings and whether to keep you in custody or to release you on bond.** Under a new regulation issued on September 17, the INS has an “additional reasonable period of time” in the event of “an emergency or other extraordinary circumstance” to make the decisions whether to keep you or release you. Make sure your attorney talks to national immigration rights organizations if this is the reason INS is keeping you in detention (see the contact numbers on the front.)
- c. You have the right to request release from detention even if INS hasn’t said why it wants to deport you.** In most cases you have the right to request release from detention by paying a bond if necessary, or to request a bond hearing before an immigration judge.
- d. In most cases, you have the right to a hearing before an immigration judge to determine whether you have violated the immigration laws.** If you have criminal convictions, were picked up by INS when you came into the U.S., or have been ordered deported in the past, you must talk to an attorney about whether you have this right and what other legal alternatives you might have.

IF YOU DO NOT DEMAND THESE RIGHTS OR IF YOU SIGN DOCUMENTS WAIVING YOUR RIGHTS, THE INS MAY DEPORT YOU BEFORE YOU SEE EITHER AN ATTORNEY OR A JUDGE. *Leaving the U.S. in this way may have serious consequences for your ability to later enter or to gain legal immigration status in the U.S.* However, the immigration laws are complex and many changes are being proposed in response to September 11, so **the above information may change.** You *must* consult an immigration specialist attorney to know your rights.

- 3. TALK TO AN IMMIGRATION LAWYER BEFORE LEAVING THE U.S.** Some non-citizens may be barred from coming back to the U.S., perhaps permanently. This includes some lawful permanent residents and applicants for green cards.
- 4. IF YOU ARE A FOREIGN NATIONAL ARRESTED IN THE U.S., YOU HAVE THE RIGHT TO CALL YOUR CONSULATE** or to have the police inform the consulate of your arrest. The police must allow your consul to visit or speak with you. Your consul might assist you in finding a lawyer or offer other help, such as contacting your family. You also have the right to refuse help from your consulate.

The rights outlined above apply to non-citizens who are inside the United States. Foreign nationals at the border (air or land) who are seeking to enter the United States are subject to additional restrictions and do not have all the same rights.